I

106TH CONGRESS
1ST SESSION

H. R. 21

To establish a Federal program to provide reinsurance for State disaster insurance programs.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. LAZIO (for himself, Mr. MCCOLLUM, Mr. BENTSEN, Mr. LAFALCE, Mr. BAKER, Mr. WEYGAND, Mr. SHERMAN, Mr. LEACH, Mrs. ROUKEMA, Mr. CAMPBELL, Mr. METCALF, Mrs. KELLY, Mr. WELDON of Florida, Mr. ACKERMAN, Mr. MALONEY of Connecticut, Ms. HOOLEY of Oregon, Mr. COOKSEY, Mr. DREIER, Mr. YOUNG of Alaska, Mr. FROST, Mr. FARR of California, Mr. MCCRERY, Mrs. MEEK of Florida, Ms. CHRISTIAN-GREEN, Mr. CANADY of Florida, Mr. CALVERT, Mr. SHAW, Mr. CUNNINGHAM, Mr. EWING, Mr. DAVIS of Florida, Mr. PRICE of North Carolina, Mr. MCKEON, Mr. BILIRAKIS, Mr. BOYD, Mrs. FOWLER, Mr. LOBIONDO, Mr. BLUNT, Mr. LAHOOD, Mrs. THURMAN, Mr. WEXLER, Ms. ROS-LEHTINEN, Mr. KNOLLENBERG, Mr. MICA, Mr. DEUTSCH, Mr. STEARNS, Mr. TRAFICANT, and Mr. PORTER) introduced the following bill; which was referred to the Committee on Banking and Financial Services

---

A BILL

To establish a Federal program to provide reinsurance for State disaster insurance programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Homeowners' Insurance Availability Act of 1999''.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the rising costs resulting from natural disasters have placed a strain on homeowners' insurance markets in many areas, jeopardizing the ability of many consumers to adequately insure their homes and possessions;

(2) the lack of sufficient insurance capacity threatens to increase the number of uninsured homeowners, which, in turn, increases the risk of mortgage defaults and the strain on the Nation's banking system;

(3) some States have intervened to ensure the continued availability of homeowners' insurance for all residents;

(4) it is appropriate that efforts to improve insurance availability be designed and implemented at the State level;

(5) while State insurance programs may be adequate to cover losses from most natural disasters, a small percentage of events are likely to exceed the financial capacity of these programs and the local insurance markets;

(6) limited Federal reinsurance will improve the effectiveness of State insurance programs and private insurance markets and will increase the likelihood that homeowners' insurance claims will be fully paid in the event of a large natural catastrophe;

(7) it is necessary to provide, on a temporary basis, a Federal reinsurance program that will promote stability in the homeowners' insurance market in the short run and encourage the growth of reinsurance capacity by the private and capital markets as soon as practical;

(8) such Federal reinsurance program should not remain in existence longer than necessary for the private entities or the capital markets, or both, to provide adequate reinsurance capacity to address the current homeowners' insurance market dislocations caused by various disasters; and

(9) any Federal reinsurance program must be founded upon sound actuarial principles and priced in a manner that minimizes the potential impact on the Treasury.

SEC. 3. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary of the Treasury shall carry out a program under this Act to make reinsurance coverage available through—

(1) contracts for reinsurance coverage under section 6, which shall be made available for purchase only by eligible State programs; and

(2) contracts for reinsurance coverage under section 7, which shall be made available for purchase by purchasers under section 7(a)(1) only through auctions under section 7(a).

(b) PURPOSE.—The program shall be designed to make reinsurance coverage under this Act available to improve the availability of homeowners' insurance for the purpose of facilitating the pooling, and spreading the risk, of catastrophic financial losses from natural disasters and to improve the solvency of homeowners' insurance markets.

(c) CONTRACT PRINCIPLES.—Under the program under this Act, the Secretary shall offer reinsurance coverage through contracts with covered purchasers, which contracts—

(1) shall not displace or compete with the private insurance or reinsurance markets or capital markets;

(2) shall minimize the administrative costs of the Federal Government;

(3) shall, in the case of any contract under section 6 for eligible State programs, provide coverage

based solely on insured losses within the State of the eligible State program purchasing the contract; and

(4) shall, in the case of any contract under section 7 for purchase at auction, provide coverage based solely on insured losses within the region established pursuant to section 7(a) for which the auction is held.

SEC. 4. QUALIFIED LINES OF COVERAGE.

Each contract for reinsurance coverage made available under this Act shall provide insurance coverage against residential property losses to homes (including dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartment buildings.

SEC. 5. COVERED PERILS.

Each contract for reinsurance coverage made available under this Act shall cover losses that are—

(1) proximately caused by—

(A) earthquakes;

(B) perils ensuing from earthquakes, including fire and tsunami;

(C) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons; or

(D) volcanic eruptions; and

(2) in the case only of a contract under section 6, insured by the eligible State program purchasing the contract.

The Secretary shall, by regulation, define the natural disaster perils under paragraph (1).

SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A program shall be eligible to purchase a contract under this section for reinsurance coverage under this Act only if the program is a State-operated program that complies with the following requirements:

(1) PROGRAM DESIGN.—The program shall be a State-operated—

(A) insurance program that offers coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments to State residents because of a finding by the State insurance commissioner or other State entity authorized to make such determination that such a program is necessary in order to provide for the continued availability of such residential coverage for all residents; or

(B) reinsurance program that is designed to improve private insurance markets which offer coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments because of a finding by the State insurance commissioner or other State entity authorized to make such determination that such a program is necessary in order to provide for the continued availability of such residential coverage for all residents.

(2) TAX STATUS.—The program shall be structured and carried out in a manner so that the program is exempt from all Federal taxation.

(3) COVERAGE.—The program shall cover only a single peril.

(4) EARNINGS.—The program may not provide for the redistribution of any part of any net profits of the program to any insurer that participates in the program.

(5) MITIGATION.—

(A) IN GENERAL.—The program shall include mitigation provisions that require that not less than 10 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural disasters for which the State insurance or reinsurance program was established. For purposes of this paragraph, mitigation shall include methods to reduce losses of life and property.

(B) EXCEPTION.—Notwithstanding subparagraph (A), in the case of any State for which the Secretary has determined, pursuant to a request by the State insurance commissioner, that the 10 percent requirement under subparagraph (A) will jeopardize the actuarial soundness of the State program, subparagraph (A) shall be applied by substituting ''5 percent'' for ''10 percent''.

(6) REQUIREMENTS REGARDING COVERAGE.—

(A) IN GENERAL.—The program—

(i) may not involve cross-subsidization between any separate property and casualty lines covered under the program;

(ii) shall include provisions that authorize the State insurance commissioner or other State entity authorized to make such a determination to terminate the program if the insurance commissioner or other such entity determines that the program is no longer necessary to ensure the availability of homeowners' insurance for all State residents; and

(iii) shall provide that, for any insurance coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments that is made available under the State insurance program and for any reinsurance coverage for such insurance coverage made available under the State reinsurance program, the premium rates charged shall be amounts that, at a minimum, are sufficient to cover the full actuarial costs of such coverage, based on consideration of the risks involved and accepted actuarial and rate making principles, anticipated administrative expenses, and loss and loss-adjustment expenses.

(B) APPLICABILITY.—This paragraph shall apply to any program which, after January 1, 1999, commences offering insurance or reinsurance coverage described in subparagraph (A) or

(B), respectively, of paragraph (1), or effective 2 years after the date of enactment for any existing State program described in section 8.

(7) OTHER QUALIFICATIONS.—

(A) IN GENERAL.—The program shall have been certified (for the year for which the coverage is in effect) by the Secretary as in compliance with regulations that shall be issued under this paragraph by the Secretary, in consultation with the National Commission on Catastrophe Risks and Insurance Loss Costs established under section 10. The regulations shall establish criteria for State programs to qualify to purchase reinsurance under this section, which are in addition to the requirements under the other paragraphs of this subsection.

(B) CONTENTS.—The regulations issued under this paragraph shall include requirements that—

(i) the State program have public members on its board of directors or have an advisory board with public members;

(ii) insurance coverage made available through the State program not supplant coverage that is otherwise reasonably available and affordable in the private insurance market;

(iii) the State program provide adequate insurance protection for the peril covered, which shall include a range of deductibles and premium costs that reflect the applicable risk to eligible properties;

(iv) the insurance protection provided by the State program is made available on a nondiscriminatory basis to all qualifying residents;

(v) the State, or the appropriate local governments within the State, have certified that new construction insured by the program complies with applicable building, fire, and safety codes;

(vi) the State, or appropriate local governments within the State, have in effect building, fire, and safety codes generally consistent with Federal Emergency Management Agency guidelines designed to reduce losses from the peril covered;

(vii) the State has taken actions to establish an insurance rate structure that takes into account measures to mitigate insurance losses; and

(viii) the State program complies with such other requirements that the Secretary considers necessary to carry out the purposes of this Act.

(b) TERMS OF CONTRACTS.—Each contract under this section for reinsurance coverage under this Act shall be subject to the following terms and conditions:

(1) MATURITY.—The term of the contract shall not exceed 1 year.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments for eligible losses only to the eligible State program purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—The contract shall pay eligible losses only if the total amount of insurance claims for losses, which are covered by qualified lines, occur to properties located within the State covered by the contract, and result from a single event of a covered peril, exceeds the amount of retained losses provided under the contract (pursuant to section 8(a)) purchased by the eligible State program.

(4) MULTIPLE EVENTS.—The contract shall cover any eligible losses from one or more covered

events that may occur during the term of the contract.

(5) TIMING OF ELIGIBLE LOSSES.—Eligible losses under the contract shall include only insurance claims for property covered by qualified lines that are reported to the eligible State program within the 3-year period beginning upon the event or events for which payment under the contract is made.

(6) PRICING.—

(A) DETERMINATION.—The cost of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(i) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the cost, but the cost may not be less than the amount recommended by the Commission.

(ii) FAIRNESS TO TAXPAYERS.—The cost shall be established at a level that is designed to return to the Federal Government fair compensation for the risks being borne by the people of the United States and that takes into consideration the developmental stage of empirical models of natural disasters and the capacity of private markets to absorb insured losses from natural disasters.

(iii) SELF-SUFFICIENCY.—The rates for reinsurance coverage shall be established at a level that annually produces expected premiums which shall be sufficient to pay the annualized cost of all claims, loss adjustment expenses, and all administrative costs of reinsurance coverage offered under this section.

(B) COMPONENTS.—The cost shall consist of the following components:

(i) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(ii) RISK LOAD.—A risk load in an amount that is not less than the risk-based price under clause (i).

(iii) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this Act.

(7) REPAYMENT TERMS.—The contract shall include a condition that requires that, in the event that a covered purchaser receives payments for qualifying claims that consist of amounts derived from obligations issued under section 9(d), such covered purchaser shall continue to purchase the reinsurance coverage provided under this Act, in amounts that are at least as great as those immediately before the Fund was credited with amounts borrowed under section 9(d), until such borrowed moneys, including interest, are repaid pursuant to section 9(d)(5)(B).

(8) INFORMATION.—The contract shall contain a condition providing that the Commission may require the State program that is covered to submit to the Commission all information on the State program relevant to the duties of the Commission, as determined by the Secretary.

(9) EXHAUSTION OF COVERAGE.—

(A) IN GENERAL.—Each contract shall provide that, if during the term of the contract the coverage under the contract is exhausted because of payment for losses from a covered event, the covered purchaser shall, during the 15-day period beginning upon the covered event that causes exhaustion of the coverage under the original contract, have an option to make a single purchase of similar coverage for the remaining term of the contract under terms and conditions similar to the original contract, but reflecting a new loss cost estimate and at a cost prorated based upon the remaining term.

(B) DISCRETION.—To facilitate making available contracts pursuant to the exercise of options under subparagraph (A), the Secretary may make—

(i) any estimates and determinations that may be necessary regarding whether coverage under a contract is exhausted and the amount of losses retained by a State program;

(ii) any estimates and assumptions necessary to establish the price, terms, and conditions of a contract provided pursuant to such an option; and

(iii) any subsequent adjustments to a contract provided pursuant to the exercise of such an option (including cancellation of the contract) to conform the price, terms, and conditions in accordance with findings by the Secretary regarding issues previously estimated and assumed by the Secretary pursuant to clause (ii).

(10) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary to carry out this Act and to ensure the long-term financial integrity of the program under this Act.

(c) PRICE GOUGING PROTECTIONS.—Notwithstanding any other provision of this section, a State-operated program that otherwise meets the requirements of this section shall be eligible to purchase a contract under this section for reinsurance coverage made available under this Act only if the Secretary determines that there are in effect, in such State, laws or regulations sufficient to prohibit price gouging, during the term of such reinsurance coverage, in any disaster area located within the State.

SEC. 7. AUCTION OF CONTRACTS FOR REINSURANCE COVERAGE.

(a) AUCTION PROGRAM REQUIREMENTS.—The Secretary shall carry out a program to auction contracts for reinsurance coverage under this Act made available pursuant to section 3(a)(2), which shall comply with the following requirements:

(1) PURCHASERS.—The auction program shall provide for auctioning all contracts made available under this section to private insurers and reinsurers, State insurance and reinsurance programs, and other interested entities.

(2) REGIONAL AUCTIONS.—The auction program shall provide for auctions on a regional basis. The Secretary shall divide the States into not less than 6 regions for the purpose of holding such regional auctions, which shall include separate regions for all or part of the State of California and all or part of the State of Florida. Auctions for each region shall be conducted not less often than annually.

(3) RESERVE PRICE.—In auctioning a contract under this section for reinsurance coverage, the Secretary shall set a reserve price as the lowest base price for that contract, based upon the recommendations of the Commission. The reserve price shall be determined on the basis of the following components:

(A) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(B) RISK LOAD.—A risk load in an amount that is not less than the risk-based price under subparagraph (A).

(C) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this section.

(D) MITIGATION.—An adjustment that takes into account any efforts that are being made to reduce losses to property in the region in which the contract is being sold.

(4) OTHER REQUIREMENTS.—The Secretary may establish such other requirements for the auction program as the Secretary considers necessary to carry out this Act.

(b) CONTRACT TERMS AND CONDITIONS.—Each contract for reinsurance coverage auctioned under the program under this section shall include the following terms and conditions:

(1) MATURITY.—The term of each such contract shall not exceed 1 year.

(2) TRANSFERABILITY.—The contract shall at all times be fully transferable, assignable, and divisible.

(3) MULTIPLE EVENTS.—The contract shall contain the provisions described in section 6(b)(4).

(4) THRESHOLD OF COVERAGE.—Each contract auctioned in a region established under subsection (a)(2) shall provide that the covered purchaser may receive a payment for losses covered under the contract if, under a process specified in the contract, the Secretary determines that the insurance industry will, as a result of a single event of a covered peril, incur losses within the coverage area for such region that are covered by one or more lines of insurance under section 5 in an aggregate amount, for such event, greater than the level of retained losses specified in section 8.

(5) EXHAUSTION OF COVERAGE.—Each contract shall contain the provisions described in section 6(b)(9).

(6) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary to carry out this Act and to ensure the long-term financial integrity of the program under this Act.

(c) PRICE GOUGING PROTECTIONS.—Notwithstanding any other provision of this section, a contract for reinsurance auctioned under this section shall provide reinsurance coverage only for losses incurred for property located in a State for which the Secretary of the Treasury has determined that there are in effect, in such State, laws or regulations sufficient to prohibit price gouging, during the term of such reinsurance coverage, in any disaster area located within the State.

SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXIMUM FEDERAL LIABILITY.

(a) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this Act, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from a single event of a covered peril (as required under sections 6(b)(3) and 7(b)(4) for payment of eligible losses) in various amounts, as the Secretary determines appropriate and subject to the requirements under subsection (b).

(b) MINIMUM LEVEL OF RETAINED LOSSES.—

(1) CONTRACTS FOR STATE PROGRAMS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a contract for reinsurance coverage under section 6 for an eligible State program that offers insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of section 6(a)(1) may not be made available or sold unless the contract requires retained losses from a

single event of a covered peril in the following amount:

(A) IN GENERAL.—The State program shall sustain an amount of retained losses of not less than the greater of—

(i) $2,000,000,000;

(ii) the claims-paying capacity of the eligible State program, as determined by the Secretary; and

(iii) an amount, determined by the Secretary in consultation with the Commission which is sufficient to cover eligible losses in the State during a 12-month period for all events having a likelihood of occurrence of once every 100 years.

(B) TRANSITION RULE FOR EXISTING STATE PROGRAMS.—

(i) CLAIMS-PAYING CAPACITY.—Subject to clause (ii), in the case of any eligible State program that was offering insurance or reinsurance coverage on the date of the enactment of this Act and the claims-paying capacity of which is greater than $2,000,000,000 but less than an amount determined for the State under subparagraph (A)(iii), the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) AGREEMENT.—Clause (i) shall apply to a State program only if the State program enters into a written agreement with the Secretary that shall provide a schedule for increasing the claims-paying capacity of the State program to the amount determined sufficient by the Secretary under subparagraph (A)(iii) of this subsection over a period not to exceed 5 years. The Secretary may extend the 5-year period for not more than 2 additional one-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program. The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential one-year extensions.

(C) TRANSITION RULE FOR NEW STATE PROGRAMS.—

(i) 100-YEAR EVENT.—The Secretary may provide that, in the case of an eligible State program that, after January 1, 1999, commences offering insurance or reinsurance coverage, during the 5-year period beginning on the date that reinsurance coverage under section 6 is first made available, the minimum level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(iii), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

(I) during the course of such 5-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A), will apply to the eligible

State program upon the expiration of such period; and

(II) each such annual increase is a substantially similar amount, to the extent practicable.

(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

(i) AUTHORITY.—Notwithstanding subparagraphs (A), (B), and (C) or the terms contained in a contract for reinsurance pursuant to such subparagraphs, if the Secretary determines that the claims-paying capacity of an eligible State program has been reduced because of payment for losses due to an event, the Secretary may reduce the minimum level of retained losses for the State commensurate with the current capacity of the State program, as determined by the Secretary, but in no case may such minimum level be less than $2,000,000,000.

(ii) TERM OF REDUCTION.—If the minimum level of retained losses for an eligible State program is reduced pursuant to clause (i), upon the expiration of the 5-

year period beginning upon such reduction the minimum level of retained losses applicable to such State program under a contract for reinsurance coverage under section 6 shall be increased to an amount not less than the amount applicable to such State program immediately before such reduction.

(E) CLAIMS-PAYING CAPACITY.—For purposes of this paragraph, the claims-paying capacity of a State-operated insurance or reinsurance program under section 6(a)(1) shall be determined by the Secretary, in consultation with the Commission, taking into consideration retained losses to private insurers in the State in an amount assigned by the State insurance commissioner, the cash surplus of the program, and the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

(2) AUCTION CONTRACTS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a contract for reinsurance coverage may not be made available or sold under section 7 through a regional auction unless the contract re-

quires that the insurance industry in the region for which the auction was conducted sustains a cumulative amount of retained losses (in covered lines resulting from covered perils) of not less than the greater of—

(A) $2,000,000,000; and

(B) an amount, determined by the Secretary in consultation with the Commission, which is sufficient to cover eligible losses in the region during a 12-month period for all events having a likelihood of occurrence of once every 100 years.

(3) ANNUAL ADJUSTMENT.—The Secretary may annually raise the minimum level of retained losses established under paragraph (1) for an eligible State program or under paragraph (2) for a region to reflect, as determined by the Secretary—

(A) in the case of an eligible State program, changes to the claims-paying capacity of the program;

(B) changes in the capacity of the private insurance and reinsurance market;

(C) increases in the market value of properties; or

(D) such other situations as the Secretary considers appropriate.

In making any determination under this paragraph in the minimum level of retained losses, the Secretary shall establish such level at an amount such that the program under this Act for making reinsurance coverage available does not displace or compete with the private insurance or reinsurance markets or capital markets, as determined by the Secretary.

(4) OPTIONAL ANNUAL INFLATIONARY ADJUSTMENT.—The Secretary may, on an annual basis, raise the minimum level of retained losses established under paragraph (1) for each eligible State program and under paragraph (2) for each region to reflect the annual rate of inflation. Any such raise shall be made in accordance with an inflation index that the Secretary determines to be appropriate. The first such raise may be made one year after contracts for reinsurance coverage under this Act are first made available for purchase.

(c) MAXIMUM FEDERAL LIABILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the maximum amount paid for all events in any single year by the Secretary pursuant to claims under all contracts for reinsurance cov-

erage under this Act shall not exceed the applicable maximum amount for such year determined under paragraph (2). If, in any single year, claims under existing contracts for reinsurance coverage exceed the applicable maximum amount, each claimant shall receive a prorated portion of the amount available for payment of claims.

(2) APPLICABLE MAXIMUM AMOUNT.—For purposes of paragraph (1), the applicable maximum amount shall be—

(A) for any year not referred to in subparagraph (B), $25,000,000,000, except that the Secretary shall annually adjust such amount (as it may have been previously adjusted) to provide for inflation in accordance with an inflation index that the Secretary determines to be appropriate; or

(B) for any year during the 4-year period beginning on the date that contracts for reinsurance coverage under this Act are first made available for purchase, the dollar amount that the Secretary shall establish and annually revise, which may not in any event exceed $25,000,000,000.

(d) LIMITATION ON PERCENTAGE OF RISK IN EXCESS OF RETAINED LOSSES.—

(1) IN GENERAL.—The Secretary may not make available for purchase contracts for reinsurance coverage under this Act that represent more than 50 percent of the risk of insured losses in excess of retained losses—

(A) in the case of a contract under section 6 for an eligible State program, for such State; and

(B) in the case of a contract made available through a regional auction under section 7, for such region.

(2) PAYOUT.—For purposes of this subsection, the amount of payout from a reinsurance contract shall be the amount of eligible losses multiplied by the percentage in effect at the time under paragraph (1).

SEC. 9. DISASTER REINSURANCE FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the Disaster Reinsurance Fund (in this section referred to as the ''Fund'').

(b) CREDITS.—The Fund shall be credited with—

(1) amounts received annually from the sale of contracts for reinsurance coverage under this Act;

(2) any amounts borrowed under subsection (d);

(3) any amounts earned on investments of the Fund pursuant to subsection (e); and

(4) such other amounts as may be credited to the Fund.

(c) USES.—Amounts in the Fund may be used only to the extent approved in appropriation Acts and only for the following purposes:

(1) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage for eligible losses under such contracts.

(2) COMMISSION COSTS.—To pay for the operating costs of the Commission.

(3) ADMINISTRATIVE EXPENSES.—To pay for the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(4) TERMINATION.—Upon termination under section 12, as provided in such section.

(d) BORROWING.—

(1) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims

and expenses under subsection (c), the Secretary may issue such obligations of the Fund as may be necessary to cover the insufficiency and shall purchase any such obligations issued.

(2) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations, the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this subsection.

(3) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this subsection shall be in such forms and denominations, bear such maturities, bear interest at such rate, and be subject to such other terms and conditions, as the Secretary shall determine.

(4) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this subsection shall be treated as public debt transactions of the United States.

(5) CONDITIONS.—The following conditions shall apply to any obligations issued under this subsection:

(A) The Secretary may issue such obligations only to such extent and in such amounts as are provided in appropriation Acts.

(B) Any obligations issued under this subsection shall be repaid, including interest, from the Fund and shall be recouped from premiums charged for reinsurance coverage provided under this Act.

(e) INVESTMENT.—If the Secretary determines that the amounts in the Fund are in excess of current needs, the Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(f) PROHIBITION OF FEDERAL FUNDS.—Except for amounts made available pursuant to subsection (d) and section 10(h), no Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance program under this Act.

SEC. 10. NATIONAL COMMISSION ON CATASTROPHE RISKS AND INSURANCE LOSS COSTS.

(a) ESTABLISHMENT.—The Secretary shall establish a commission to be known as the National Commission on Catastrophe Risks and Insurance Loss Costs.

(b) DUTIES.—The Commission shall meet for the sole purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance coverage available under this Act and carrying out the functions specified in this Act.

(c) MEMBERS.—The Commission shall consist of not more than 5 members, who shall be appointed by the Secretary and shall be broadly representative of the public interest. Members shall have no personal, professional, or financial interest at stake in the deliberations of the Commission. The membership of the Commission shall at all times include at least 1 representative of a nationally recognized consumer organization.

(d) TREATMENT OF NON-FEDERAL MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be considered a special Government employee for purposes of sections 202 and 208 of title 18, United States Code.

(e) EXPERTS AND CONSULTANTS.— The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at a rate not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate of basic pay payable for level V of the Executive Schedule, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(g) OBTAINING DATA.—The Commission and the Secretary may solicit loss exposure data and such other information either deems necessary to carry out its responsibilities from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry. The Commission and the Secretary shall take such actions as are necessary to ensure that information that either deems is confidential or proprietary is disclosed only to authorized individuals working for the Commission or the Secretary. No company which refuses to provide information requested by the Commission or the

Secretary may participate in the program for reinsurance coverage authorized under this Act, nor may any State participate if any governmental agency within that State has refused to provide information requested by the Commission or the Secretary.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(A) $1,000,000 for fiscal year 1999 for the initial expenses in establishing the Commission and the initial activities of the Commission that cannot timely be covered by amounts obtained pursuant to sections 6(b)(6)(B)(iii) and 7(a)(4)(C), as determined by the Secretary; and

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission.

(2) OFFSET.—The Secretary shall provide, to the maximum extent practicable, that an amount equal to any amount appropriated under paragraph (1) is obtained from purchasers of reinsurance coverage under this Act and deposited in the Fund established under section 9. Such amounts shall be obtained by inclusion of a provision for the Commission's expenses incorporated into the pricing of the

contracts for such reinsurance coverage, pursuant to sections 6(b)(6)(B)(iii) and 7(a)(4)(C).

(i) TERMINATION.—The Commission shall terminate upon the effective date of the repeal under section 12(c).

SEC. 11. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Catastrophe Risks and Insurance Loss Costs established under section 10.

(2) COVERED PERILS.—The term ''covered perils'' means the natural disaster perils under section 5.

(3) COVERED PURCHASER.—The term ''covered purchaser'' means—

(A) with respect to reinsurance coverage made available under a contract under section 6, the eligible State-operated insurance or reinsurance program that purchases such coverage; and

(B) with respect to reinsurance coverage made available under a contract under section 7, the purchaser of the contract auctioned under such section or any subsequent holder or holders of the contract.

(4) DISASTER AREA.—The term ‘‘disaster area’’ means a geographical area, with respect to which—

(A) a covered peril specified in section 5 has occurred; and

(B) a declaration that a major disaster exists, as a result of the occurrence of such peril—

(i) has been made by the President of the United States; and

(ii) is in effect.

(5) ELIGIBLE LOSSES.—The term ‘‘eligible losses’’ shall be defined by the Secretary, after consultation with the Commission.

(6) ELIGIBLE STATE PROGRAM.—The term ‘‘eligible State program’’ means a State program that, pursuant to section 6(a), is eligible to purchase reinsurance coverage made available through contracts under section 6.

(7) PRICE GOUGING.—The term ‘‘price gouging’’ means the providing of any consumer good or service by a supplier for a price that the supplier knows or has reason to know is greater, by at least the percentage set forth in a State law or regulation

prohibiting such act (notwithstanding any real cost increase due to any attendant business risk and other reasonable expenses that result from the major disaster involved), than the price charged by the supplier for such consumer good or service immediately before the disaster.

(8) QUALIFIED LINES.—The term ''qualified lines'' means lines of insurance coverage for which losses are covered under section 4 by reinsurance coverage under this Act.

(9) REINSURANCE COVERAGE.—The term ''reinsurance coverage under this Act'' includes coverage under contracts made available under sections 6 and 7.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(11) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

SEC. 12. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not provide any reinsurance coverage under this Act covering any period after the expiration of the 10-year period beginning on the date of the enactment of this Act.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under this Act is necessary to carry out the purpose of this Act under section 3(b) because of insufficient growth of capacity in the private homeowners' insurance market, the Secretary shall continue to provide reinsurance coverage under this Act until the expiration of the 5-year period beginning upon the expiration of the period under subsection (a).

(c) REPEAL.—Effective upon the date that reinsurance coverage under this Act is no longer available or in force pursuant to subsection (a) or (b), this title (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall cover into the General Fund of the Treasury any amounts remaining in the Fund under section 9 upon the repeal of this title.

SEC. 13. ANNUAL STUDY OF COST AND AVAILABILITY OF DISASTER INSURANCE AND PROGRAM NEED.

(a) IN GENERAL.—The Secretary shall, on an annual basis, conduct a study and submit to the Congress a public report on the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters covered by the reinsurance program under this Act.

(b) CONTENTS.—Each annual study under this section shall determine and identify, on an aggregate basis—

(1) for each State or region, the capacity of the private homeowners' insurance market with respect to coverage for losses from catastrophic natural disasters;

(2) for each State or region, the percentage of homeowners who have such coverage, the disasters covered, and the average cost of such coverage;

(3) for each State or region, the progress that private reinsurers and capital markets have made in providing reinsurance for such homeowners' insurance;

(4) for each State or region, the effects of the Federal reinsurance program under this Act on the availability and affordability of such insurance; and

(5) the appropriate time for termination of the Federal reinsurance program under this Act.

(c) TIMING.—Each annual report under this section shall be submitted not later than March 30 of the year after the year for which the study was conducted.

(d) COMMENCEMENT OF REPORTING REQUIREMENT.—The Secretary shall first submit an annual report under this section 2 years after the date of the enactment of this Act.

○